

MONTENEGRO

EXECUTIVE SUMMARY

Montenegro is a mixed parliamentary and presidential republic. Both the president and the unicameral parliament (the Assembly) are popularly elected. The president nominates, and the Assembly approves, the prime minister. According to international observers, Assembly elections held in 2009 met international standards but underscored the need for further democratic development. Security forces reported to civilian authorities.

One of the most important human rights problems facing the country was the mistreatment of refugees and other persons displaced as a consequence of conflicts in the 1990s and the absence of a resolution of their legal status. Another was societal discrimination based on gender, sexual orientation, ethnicity, age, and disability. Corruption continued to be a serious problem, despite some improvements in the government's battle against it. It was fostered by extensive cronyism and nepotism, weak controls over conflicts of interest, and the failure of the executive and judicial branches to identify and prosecute corrupt high-ranking officials.

Other human rights problems included police mistreatment of suspects under arrest; substandard prison conditions; lengthy pretrial detention and protracted and inefficient trials; inadequate independence of the judiciary; physical attacks on journalists and politicization of the media that weakened the effectiveness of the press; denial of public access to information; domestic and other violence against women; child marriage among the Roma; and trafficking in persons. Roma lacked adequate access to employment, education, and housing. Infringement of workers' rights and child labor were also reported.

The government took steps to prosecute and punish officials who committed abuses, whether in the security services or elsewhere in the government. Nevertheless, impunity remained a problem in some areas.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

On May 30, in Podgorica, off-duty policeman Zoran Bulatovic killed Aleksandar Pejanovic, a former boxer and police officer, following a quarrel between the two. Bulatovic's trial for murder began in September. Pejanovic, an outspoken advocate of maintaining the Serbia-Montenegro union, received widespread press attention when he charged police with beating him after he participated in a protest against Montenegro's recognition of Kosovo's independence in 2008. At year's end police officers were being retried in connection with Pejanovic's 2008 and 2011 charges.

During the year authorities continued the slow process of pursuing, through the courts and in cooperation with neighboring governments, allegations of war crimes against persons associated with various sides during the Balkan wars of 1991-99. Only low- and middle-ranked police and military officers have been charged for these alleged crimes. The courts pronounced judgements in three cases, which were later appealed, leading to new trials or investigations. The case of six former Yugoslav People's Army soldiers and reservists accused of war crimes in 1991 and 1992 in the Morinj prisoner of war camp ended with convictions. However, the seven individuals charged with atrocities against Bosnian Muslims in the Bukovica region in 1992 and 1993, as well as nine former police officers accused of deporting 83 Bosnian refugees who were then killed, presumably by Bosnian Serb troops, were acquitted. There was considerable societal pressure on a former police officer, Slobodan Pejovic, who testified in one of the cases. He was physically attacked several times, suffered damage to his personal property, and was sued. There were also allegations that Pejovic was actually one of the perpetrators of the crime. The often delayed trial of eight officers and soldiers from the Podgorica Corps of the former Federal Republic Yugoslav Army, who were accused of the 1999 killing of 23 Albanian civilians in Kaludjerski Laz near Rozaje, continued at year's end.

b. Disappearance

There were no reports of disappearances or politically motivated abductions or kidnappings.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices, but police at times beat and harassed suspects, particularly during arrest or custodial interrogation.

In June the nongovernmental organization (NGO) Youth Initiative for Human Rights (YIHR) expressed concern about the government's slow pace in processing cases of alleged torture and other forms of inhuman treatment and pointed to the small number of resolved cases. They also highlighted reported allegations of torture by police officers in prisons.

Authorities continued measures to implement the recommendations of the Council of Europe's Committee to Prevent Torture (CPT), published in 2010. The recommendations stemmed from a 2008 mission that inspected the country's prisons. According to the CPT's report, inmates made numerous accusations of torture and mistreatment, including beatings with sticks, at the hands of officials. In the latter half of 2010, the ombudsman made unannounced, after-hours visits to all 21 police detention units. In a special report on detention units, which was forwarded to the Assembly, he stated that many deficiencies related to the mistreatment of persons in custody had been rectified, especially in the conditions of detention cells (including physical enlargement, better equipment, lighting, hygiene, ventilation, and air conditioning).

During the first eight months of the year, the Department for Internal Control of Police Operations received 63 complaints of police misconduct. It found 14 cases justified and 49 unjustified. The police stated that they took disciplinary actions in response to those complaints they considered justified.

On February 23, according to the media, police director Veselin Veljovic denied Internal Control Department personnel access to the police electronic database, blocking their investigations. In response to the Interior Ministry's objection, Veljovic cited the law protecting data privacy.

Citizens may address complaints of police abuse to a legally mandated agency, the Council for Civilian Control of Police Operations, but the council can only make recommendations for action to the Office of Internal Police Control or the state prosecutor. In the first six months of the year, the council reviewed and forwarded approximately 50 such complaints to the police and judiciary. Information on follow-up by those institutions was not available. Some members of the Assembly claimed that the council's monitoring of the police was inadequate.

Observers noted that police continued the practice of filing countercharges against individuals who reported police abuse. It was widely believed that this practice contributed to the reluctance of citizens to report police mistreatment.

On June 3, police stated that prosecutors brought criminal charges against 235 police officers during the previous five years, but there were no reliable statistics on the conviction rate. Courts at times dismissed allegations of police abuse because they had not been filed or processed in a timely manner.

During the year prosecutors charged, and courts convicted, a number of officials of mistreating individuals in their custody. On May 25, for example, the Podgorica Basic Court sentenced police officer Djordje Papic to 10 months in prison for mistreating Danijel Batrovic and Zlatko Gosovic in 2007.

On June 15, the media reported that the High Court confirmed a lower court's acquittal of five special police antiterrorism unit officers (Marko Kalezic, Darko Sekularac, Nenad Scekic, Branko Radickovic, and Milorad Mitrović) of mistreating Pjetar Sinistaj and his sons Anton and Viktor while arresting the elder Sinistaj. The case involved one of the country's largest police actions, in which a group of 18 ethnic Albanians from Malesija, a predominantly Albanian region near Podgorica, were arrested one day before the 2006 Assembly elections for allegedly plotting terrorist attacks.

Courts and prosecutors continued to wrestle with allegations of complicity by officials in the mistreatment of Aleksandar Pejanovic, who was brutally beaten while incarcerated, leading to a renewed trial against the alleged perpetrators within the police force. Pejanovic's trial gained wide media attention. On April 15, the Podgorica High Court overruled the 2010 decision of the Podgorica Basic Court that had sentenced police officers Milan Kljajevic and Milanko Lekovic to five months in prison, and Ivica Paunovic to three months, for complicity in Pejanovic's mistreatment (the lower court had acquitted two other alleged participants). A new trial was pending at the year's end. Following this lengthy legal imbroglio, the High Court overruled the decision of the basic prosecutor to indict Goran Stankovic, who was another one of the police officers accused of mistreating Pejanovic and who testified against the others. During the trial, Stankovic alleged that several of his colleagues, mostly supervising and higher-ranking officers, committed a series of offenses involving the ordering, enabling, and cover-up of Pejanovic's torture. At year's end a special antiterrorist unit policeman, Zoran Bulatovic, was on trial for the May killing of Pejanovic.

Prison and Detention Center Conditions

Prisons and facilities for holding pretrial detainees were generally dilapidated, overcrowded, and according to the Ministry of Justice, a threat to the safety of prisoners, although there were some improvements over previous years.

In its report to the Assembly committee responsible for monitoring prison conditions, the Ministry of Justice cited a shortage of facilities as a significant problem that reduced the government's ability to carry out prison sentences according to prescribed standards.

In September observers visiting Spuz Prison, the country's largest penitentiary, described continued problems of overcrowded facilities in need of enlargement and renovation. The inadequacy of facilities for treating alcoholics and drug addicts led the administration of the Spuz facility, which is near Podgorica, to place many such patients in a psychiatric hospital that was poorly equipped to handle criminal patients.

On June 11, prisoner Radojko Jurisevic died after overdosing on medications. His family accused prison authorities of failing to provide adequate medical care following the overdose. On November 14, Milivoje Terzic from Pljevlja, who was in detention on suspicion that he swindled the mother of the fugitive drug lord Darko Saric out of 300,000 euros (\$390,000), was found dead in a prison cell. While prison authorities and one forensic expert claimed that Terzic died by hanging himself, another forensic expert said that the detainee could have been strangled. Due to the conflicting autopsy reports, no conclusion about the cause of death was reached by year's end.

During the year 12 inmates went on hunger strikes protesting alleged abuses, including protracted criminal proceedings, overly severe sentences, physical abuse by guards, poor medical conditions, and a ban on personal visits. Prison administrators denied those accusations. During the year 12 women serving sentences in a partially open section of the Spuz Prison described to the media conditions there that they considered inhumane.

In September the country's prison population of 1,350 exceeded the maximum capacity of 1,050, despite the implementation of an amnesty program in July 2010 that slightly reduced the prison population. Of the 1,350 inmates, 414 were convicts and 936 were detainees. During the year three deaths were reported in prisons.

In the first nine months of the year, prison authorities disciplined 11 prison wardens for violating various work rules and protocols. In 2010 they fined 33 wardens and fired three.

Prisoners had reasonable access to visitors, were permitted religious observance, and were given appropriate and sufficient food. Individual prisons did not have ombudsmen, but authorities permitted both visitors and detainees to submit complaints to judicial authorities and the national ombudsman without censorship and to request that authorities investigate credible allegations of inhumane conditions. In 2010 the ombudsman received 44 complaints of inhumane treatment in prison. For example, in Spuz Prison there were special boxes where inmates could submit grievances directly to the ombudsman, but the boxes were located in the corridors under video surveillance and keys were kept by prison administrators, which discouraged inmates from submitting grievances. Several families of imprisoned or detained persons claimed during the year that serious violations of inmates' rights occurred despite existing safeguards. Conditions for women were equal to those of men. Inmates had access to potable water.

Authorities often investigated credible allegations of inhumane conditions, but at times did so only in reaction to media campaigns or upon the ombudsman's recommendation. NGOs and human rights activists often criticized the results of those investigations. The ombudsman expressed the view that more guards should have been held responsible for the 2009 beating of inmates Dalibor Nikezic and Igor Milic, a violation of prison procedures that was filmed by the security camera. The Ministry of Justice, responsible for operating the national prisons, monitored prison and detention conditions.

According to the law, authorities may allow certain convicted persons to serve their sentences through voluntary service in a state institution or agency, but this alternative, which observers noted could reduce overcrowding, was used only in a few cases. The practice of detaining suspects pending trial was almost universal. In June the Assembly amended the law to empower a newly founded Department for Suspended Sentences in the Ministry of Justice to grant conditional release to prisoners who served two-thirds of their sentence and to monitor furloughed convicts. A new criminal procedure code, whose full implementation began in the second half of the year, envisages a number of noncustodial supervision measures. Enabling legislation on supervisory monitoring by electronic device was not adopted during the year.

Authorities continued to make improvements in the prison system. In 2010 new space was added to prisons in Spuz and Bijelo Polje. Units in these prisons for prisoners serving shorter sentences and suspects awaiting trial were under repair. Repairs were made on the electric and water supplies, as well as sewage facilities, in both prisons, and existing facilities were renovated. In the Spuz Prison, authorities built a new cafeteria and an administration building.

The government permitted monitoring visits by independent nongovernmental observers, including human rights groups, the International Committee of the Red Cross (ICRC), and the media, in accordance with their standard modalities. Visits by domestic NGOs, the European Commission, and the Organization for Security and Cooperation in Europe (OSCE) also took place during the year. Some of the visits were undertaken on short notice, and monitors were allowed to speak with the prisoners without the presence of a guard. Representatives of the Office of the Human Rights Ombudsman routinely visited prisons without prior notice, meeting with detainees and inmates.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The national police force, which includes the border police, is responsible for law and order. They were generally effective. The Agency for National Security (ANB), a self-standing entity within the government, is responsible for intelligence and counterintelligence. Military and security affairs are the responsibility of the Ministry of Defense. In July the ANB and Ministry of Defense signed a memorandum of understanding that mandates that several members of the ANB be seconded to the Defense Ministry to collect and process defense intelligence, a decision which led some opposition leaders to accuse the ANB, which they assert has abused its authority on behalf of the governing coalition, of seeking to exert inappropriate influence on the Defense Ministry in the area of cooperation with NATO. The Assembly is responsible for overseeing democratic and civilian control of the army, police, and security services. Assembly members sitting on that body's Committee for Defense and Security had access to classified documents without prior approval or security clearances. The NGO Alternativa accused the Assembly of insufficient enforcement of control mechanisms envisaged by the Law on Parliamentary Oversight of Security Services.

Some problems of impunity in the security forces remained, and opposition parties described such oversight mechanisms as the Council for Civilian Control of Police Operations as ineffective. Criminal proceedings against police for mistreatment of persons in their custody, obtaining evidence by means of extortion, and other violations of office were rare. Investigations of alleged abuses were ineffective and penalties were lenient. In its report for 2009-2010, the Council for Civilian Oversight of Police Operations stated that prosecutors initiated criminal proceedings in only four of the 17 cases of alleged police mistreatment of civilians that it forwarded to them. Whistleblowers among the police were not well protected, as shown by the case of Goran Stankovic, a policeman who testified in the beating of Aleksandar Pejanovic (see section 1.c.). Human rights observers claimed that citizens were reluctant to report police misconduct for fear of reprisals. The Prosecutor's Office is responsible for initiating criminal investigations into allegations of torture and mistreatment. In such cases the courts usually found that police use of force was reasonable.

In its September 2010 report on police reform, the OSCE, while noting that problems remained, stated that "encountering police in 2010 one cannot help but realize that police reform is immediately visible." The report called for further training, noting that "only a tiny percentage of police officers have been fully trained at the Academy... [;] the majority...remained products of the short in-service training courses."

Arrest Procedures and Treatment While in Detention

Arrests require a judicial warrant or a "strong suspicion that the suspect committed an offense." Police generally made arrests with warrants based on sufficient evidence. The law provides that police must inform arrested persons immediately of their rights, and authorities respected this right in practice. Authorities have a maximum of 24 hours to inform the family, common law partner, or responsible social institution of an arrest. They may detain suspects for up to 48 hours before bringing them before a judge and charging them. At arraignment the judge makes an initial determination about the legality of the detention. In practice, arraignment generally occurred within the prescribed period. The law permits a detainee to have an attorney present during police and court proceedings. Detainees generally had prompt access to a lawyer and family members. There is a system of bail, but it was not widely used because citizens could rarely raise money for bail.

Trials themselves were subject to frequent interruptions.

Police continued to summon suspects and witnesses to police stations for “informative talks,” usually without holding them for extended periods. In principle those who have been summoned have the right not to respond.

The law forbids the use of force, threats, or coercion by police to obtain evidence, but police at times beat and harassed suspects while arresting them or detaining them for questioning. NGOs and human rights observers noted that the incidence of such practices had greatly declined in the previous two years.

In August a new criminal procedure code entered into force. The deputy prime minister, who also serves as the minister of justice, stated that the judiciary was prepared to apply the entire code. The new code specifies that verdicts may not be based on evidence that has been obtained by violating human and fundamental rights guaranteed by the constitution or by ratified international treaties. It includes the right of detainees to be visited by the ICRC and other international organizations and requires authorities to reopen cases when the European Court of Human Rights (ECHR) or any other court established by an internationally ratified treaty finds that a conviction was achieved by methods or procedures that violate human rights and freedoms.

Pretrial Detention: The law sets the initial length of pretrial detention at 30 days but provides for the possibility of an extension to five more months and allows a defendant to be detained for up to three years before a trial court verdict is issued. Pretrial detainees on average accounted for 44 percent of the prison population. According to authorities, the average length of pretrial detention was approximately three months and 19 days in the Spuz Prison and two months and 15 days in the Bijelo Polje Prison.

Extensive backlogs in the justice system contributed to numerous instances of lengthy pretrial detention. A 2007 law on the right to trial within a reasonable time was not effective. Courts rejected almost all defendants’ complaints of delays but did not give parties concrete legal grounds for doing so, making it difficult to challenge the decisions. Relatively few defendants tried to make use of the law to challenge delays. According to a March analysis conducted by the NGO Human Right Action, defendants filed only 214 complaints since adoption of the law, despite a backlog of 10,853 cases, some from 2008 and earlier.

Amnesty: During the first eight months of the year, the president pardoned 65 convicts.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, but some observers asserted that the judiciary was not always independent. They claimed that government officials influenced prosecutors for political and personal reasons. Nevertheless, progress continued to be made on judicial reform, strengthening the independence, responsibility, and capacity of judges and prosecutors.

Some observers contended that the process by which the executive and legislative branches proposed and adopted the courts' budgets could influence the independence of the judiciary. There were also aspects of the legal framework that provided space for political influence. For example, in the view of some observers, the manner of appointment of judicial and prosecutorial officials, including the absence of a merit-based career system, did not adequately shield them from political influence. While cases are ostensibly assigned to judges at random, concerns over the transparency of the process were raised. The government and politicians at times sought to influence the judiciary by commenting on the cases--for example, in some trials for slander or corruption involving prominent persons or senior officials--and thereby contributed to continued public distrust of the judiciary. A large backlog of cases, primitive courtroom facilities, inadequate administrative support for judges and prosecutors, shortage of skills, cumbersome procedures, and judicial corruption also remained problems.

On September 28, the NGO Center for Democracy and Human Rights published a report indicating that the principles of a fair trial were violated in nearly one-half of the 35 cases the group followed during a five-month period. The most common violations involved the right to a speedy trial, but there were also instances in which police failed to comply with court orders. The implementation of civil and criminal court decisions frequently remained weak.

A law on free legal aid, adopted on April 5 and scheduled to take effect on January 1, 2012, was designed to apply to all citizens, foreigners with permanent residence, and persons with approved temporary residence. At year's end authorities were in the process of establishing legal aid offices in basic courts throughout the country. The UN Development Program (UNDP) supported the establishment of three pilot offices in Podgorica.

Courts continued to reduce their backlogs of civil and criminal cases, but concerns remained about the reliability of statistics as an indicator of the qualitative progress. On September 1, a law took effect designed to make the administration of misdemeanor penalties more efficient. In its October 12 enlargement report, the European Commission noted judicial reform as one area in which the country had made significant progress; however, other reports suggested that the commission may have been too generous in its praise of the judicial system.

A Judicial Council is responsible for the election, discipline, and removal of judges. Since the existing council was established in 2008, several judges have been fired, suspended, or sanctioned for unprofessional behavior.

In July the Assembly amended the laws affecting the courts, the Judicial Council, and the Office of the State Prosecutor, in an attempt to limit political influence and broaden judicial independence. The amendments changed the manner of appointment of members of the Judicial Council, giving judiciary an increased role, providing for greater transparency, and introducing higher standards for members. There were changes in the composition of the Prosecutorial Council, and it was given a broader scope of action in disciplinary proceedings.

Authorities stated that courts completed 76.7 percent of their cases in 2010, processing 127,197, or 1.6 percent, more cases than in 2009. To make the work of the courts more transparent, the Supreme Court's Web site, established in October, began posting the decisions of the courts.

Trial Procedures

Criminal trials are generally public, but sessions may be closed during the testimony of state-protected witnesses. Juries are not used. Professional judges preside over trials. Lay judges assist them in determining verdicts, but the judges generally determine the sentences. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner in pretrial and trial proceedings. Defendants have a right to an attorney and an attorney is provided at public expense when a defendant is a disabled person, in detention, destitute, or indicted on a charge carrying a possible sentence greater than 10 years. These rights were generally respected. Defendants and their attorneys have the right to access government-held evidence relevant to their cases. Defendants enjoy a legal presumption of innocence. Courts may try defendants in absentia but must repeat the trials if the convicted individuals are later apprehended. Both the defense and

the prosecution have the right of appeal. Defendants' rights were generally respected and extended to all citizens.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Court Decisions

Once national remedies are exhausted, citizens may appeal alleged violations of human rights by the state to the ECHR. At year's end 885 cases involving the country were pending before the ECHR, most relating to the right to a speedy trial, alleged failure to implement court decisions, property restitution, property rights, length of pretrial detention, media freedom, treatment by police, and slander. Since 2004 the ECHR has issued six rulings against the government for violations of the European Convention on Human Rights. Authorities immediately implemented the first ruling, handed down in 2009. Implementation of the remaining rulings was pending.

Civil Judicial Procedures and Remedies

The constitution and law provide for an independent judiciary in civil matters, and citizens had access to courts to bring lawsuits seeking damages for, or cessation of, human rights violations. Although parties have brought suits alleging human rights violations and at times prevailed, there was widespread public distrust in the independence of the judiciary.

Citizens may appeal violations of their human rights to the Constitutional Court, which is often publicly criticized for its inefficiency and lack of transparency. In 2010 the Constitutional Court accepted three appeals and rejected 184. The Constitutional Court does not judge, but only examines the alleged human rights violations committed in the case or procedure. If the court finds a human rights violation, it will revoke the decision and refer it to the appropriate authority or court to rectify its decision.

Courts continued to deliberate on a series of claims filed on behalf of 54 plaintiffs seeking 1.4 million euros (\$1.82 million) in damages arising from the 1992 deportation of Muslims and Bosniaks to Republika Srpska in Bosnia-Herzegovina, where they subsequently were killed or disappeared. In five cases plaintiffs were

awarded 435,000 euros (\$566,000) total, while other cases were pending at year's end. In earlier cases 196 plaintiffs were awarded 4.1 million euros (\$5.3 million).

Property Restitution

Although the return of private property seized since 1945 continued during the year, many applicants complained that the process was slow and lacking in transparency, and that the appropriated funds were insufficient. The 2010 report of the ombudsman's office contained similar criticism and noted that it had received a significant number of complaints about the restitution commissions the government established to handle claims. The report noted that compensation proceedings heard by the commission in Podgorica were significantly less protracted than those adjudicated by the commissions in Bijelo Polje and Bar.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such interference without court approval or legal necessity and prohibit police from searching a residence or conducting undercover or monitoring operations without a warrant. The government generally respected these prohibitions.

During the year Vasilije Milickovic from Podgorica accused the police and the mayor of Podgorica of illegally arresting him and expropriating his land. On May 4 and 5, Milickovic tried to prevent the workers of the Tehnoput Company from building a detour of a Podgorica road on his land. He tried to block the construction, claiming that his property rights were violated because the city decided to construct the road while his court appeals were pending. In two separate trials, the Podgorica Basic Court sentenced Milickovic to 20 days in prison and a 1,100 euros (\$1,430) fine for violating public peace and order when he refused to allow the construction crews on his property. Subsequently the Administrative Court revoked the decision and ordered a new trial.

The law requires the ANB to obtain court authorization for wiretaps, but some observers believed that authorities selectively used wiretapping and surveillance against opposition parties and other groups without court authorization. Many individuals and organizations operated on the assumption that they could be under surveillance.

In April the Agency for Protection of Personal Data (APPD), an independent government organization with the responsibility for protecting personal data,

voided an agreement according to which telephone service providers were giving police extensive data about citizens, including direct access to the listings of mobile telephone services, without a court order. Both the agency and the Prosecutor's Office subsequently reported that they found no irregularities in police use of information from mobile phone service providers. Police forwarded new agreements to the APPD for assessment.

On November 4, the Podgorica Basic Court voided an agreement between police and the service provider M:tel giving police access to the databases and telephone records of M:tel's subscribers. The court acted in response to a complaint by the NGO Network for Affirmation of the NGO Sector (MANS), which contended that police should not have the legal right to access the databases and telephone records of the country's three mobile phone providers without a court authorization. MANS additionally claimed that police violated citizens' privacy by warrantless monitoring of more than 20,000 private telephone conversations since 2007. Police director Veselin Veljovic rejected this charge.

The APPD stated that the most common violation of privacy was excessive use of public video surveillance. The agency claimed that illegal use of video cameras by both public institutions and private businesses was a big problem, emphasizing that surveillance was used contrary to regulations and without the APDS's approval.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, but there were some restrictions in law and practice. The constitution and law criminalize the incitement of national, racial, and religious hatred and intolerance and there were some prosecutions during the year (see section 6).

Freedom of Speech: Individuals could criticize the government publicly or privately without reprisal, and there were no reports that the authorities monitored political meetings or otherwise attempted to impede criticism.

On January 20, prosecutors charged Bishop Amfilohije Radovic of the Serbian Orthodox Church in Montenegro (SPC) with engaging in hate speech. Responding to government plans to demolish a church whose location they regarded as illegal,

the bishop said “anyone who demolishes the church, may God demolish him.” The prosecutors claimed that Radovic’s words caused offense to Montenegrins. The trial before the Podgorica Court of Offense continued at year’s end.

Freedom of Press: Although the independent media were active and generally expressed a wide variety of political and social views, there were reports of threats against journalists as well as of political and economic pressure placed on the media. The government did not restrict the distribution of foreign publications. The print media included private newspapers and a state-owned newspaper with a national circulation.

Authorities were again unsuccessful in their efforts to sell the government’s 86 percent holding in the national daily newspaper *Pobjeda*, as required by a 2002 law. They supported the newspaper financially with the stated aim of avoiding bankruptcy. Opposition politicians continued to criticize the newspaper’s reporting, which they claimed favored the government and was used to discredit government opponents, including opposition politicians, some private media owners, and some NGOs. A new tender issued on September 27 for privatization of the state-owned publisher resulted in one bid, but authorities had not started talks with the bidder at year’s end.

Private media claimed that the placement of advertising in the media by state-owned companies was not transparent or free of political influence, pointing out that such companies advertised mainly with the state-owned newspaper, even though it had a smaller circulation and less influence than its private competitors.

Government opponents continued to criticize the functioning of the country’s public radio and television broadcaster, Radio and Television of Montenegro (RTCG). They claimed that, instead of serving the public interest, RTCG was controlled by the ruling political structures and that the public broadcaster clearly favored the government in its programming and reporting.

Violence and Harassment: Representatives of the independent newspaper *Vijesti* continued to be the main targets of anonymous attacks. On three occasions in July and August, vandals set fire to vehicles belonging to the newspaper. On July 25, the OSCE media representative wrote to the foreign and interior ministers that these crimes “seriously undermine media freedom in Montenegro and create a chilling effect for the entire media community.” On November 28, media reported that Daily Press, *Vijesti*’s publisher, sued the state for 60,000 euros (\$78,000) in compensation for the authorities’ failure to prevent the “terror attacks on the

newspaper's property" and their failure to protect the company's rights and interests. There were no reports on the court's actions in this case at year's end.

On November 18, a journalist and a cameraman from *Vijesti* Television and a photo reporter from the daily *Vijesti* newspaper were physically assaulted while filming at a location in Niksic. Police arrested three persons following the attack. The prosecutor of Niksic Basic Court filed criminal charges against one of the attackers, the Court of Offense fined another 560 euros (\$728) for insulting the reporters, and the third person was acquitted. Prime Minister Igor Luksic and the resident OSCE mission condemned the attacks. The assaulted reporters said they did not know why they were attacked. The editor in chief of *Vijesti* Television warned that the attacks on journalists would continue as long as the perpetrators of previous attacks on journalists went unpunished.

Investigations or trials related to several earlier attacks continued. Legal wrangling continued in connection with an alleged physical assault in 2009 by the mayor of Podgorica and his son of *Vijesti*'s deputy editor in chief and a photo reporter for the newspaper.

Journalists and other media professionals continued to receive threats. For example, authorities indicted Marko Piper and Slavko Music, two workers at a factory in Mojkovac, on allegations that they threatened *Vijesti* reporter Olivera Lakic over several articles she wrote about the illegal production of cigarettes that allegedly was taking place there. Their trial was underway at year's end.

Libel Laws/National Security: On June 22, the Assembly eliminated legal provisions that made defamation and insult criminal acts. In the past, officials used these provisions to discourage journalists from writing negative articles about them and to punish journalists for stories that accused them of wrongdoing.

On December 20, the Podgorica High Court overturned the four-month prison sentence for libel levied by the Podgorica Basic Court against journalist Petar Komnenic. The high court recommended community service instead. The basic court initially levied a penalty of 3,000 euros (\$3,900), because of an article by Komnenic in *Monitor* in 2007 in which he claimed that a number of judges of the Podgorica Higher Court were kept under secret government surveillance. Komnenic refused to pay the fine, and it was converted into a four-month prison sentence.

On November 22, the ECHR found that authorities violated the free speech rights of Veseljko Koprivica, editor of the magazine *Liberal*, when they fined him for claiming in a 2004 article that 16 Montenegrin journalists were facing trial by the International Criminal Tribunal for Yugoslavia. The Tribunal stated that the information was false. Even though the ECHR agreed that Koprivica had made insufficient efforts to confirm his information, it found the damages levied upon him--25 times greater than his monthly pension--were disproportionate.

The constitution and law criminalize the incitement of national, racial, and religious hatred and intolerance. On April 7, the Agency for Electronic Media, the supervisory body in the field of broadcast media, issued an official warning to Radio Svetigora because of a statement by the SPC priest and abbot of Dajbabe Monastery Nikodim broadcast on March 27 that “the Montenegrin nation was created by the devil, not by God.” The agency noted that the Radio Svetigora journalist who interviewed the priest failed to take issue with the statement, and warned the radio not to incite, spread, or enable hate speech or other forms of discrimination. On October 25, local media reported that Podgorica’s Court of Offense found the priest guilty of hate speech and fined him 900 euros (\$1,170).

Despite these developments, some media outlets demonstrated a willingness to criticize the government. The prominence of articles and television programs critical of the authorities suggested that self-censorship was not a major problem. Some observers noted that journalists were susceptible to bias due to their lack of expertise, pressure from their employers, or their political affiliations. The observers noted that a deep division between progovernment and opposition media, manifested by mutual accusations in the public sphere, prevented the establishment of a functional self-regulation mechanism for journalists.

Actions to Expand Press Freedom

In addition to legislation enacted by the Assembly eliminating criminal libel, authorities appropriated a 4.5 million euro (\$5.8 million) subsidy to broadcast media to cover their debts to government agencies for unpaid license fees and signal transfer taxes for 2009-10. The government also helped the private newspaper distributing company Bega Press to emerge from its 2009 bankruptcy. The cost of the rescue attempt was 880,000 euros (\$1.14 million). The funding allowed the three dailies *Dan*, *Vijesti*, and *Pobjeda* and the weekly publication *Monitor* to offset 800,000 euros (\$1.04 million) owed them by Bega Press. The three included both state-owned and privately owned publications, but government

opponents questioned the legitimacy of the decision to use taxpayer money to aid the bankrupted private company.

Internet Freedom

There were no government restrictions on access to the Internet, but until ordered to cease doing so in March, one of the country's principal Internet service providers gave police direct and warrantless access to all forms of communications carried on its servers. It was unknown whether authorities made use of this access to monitor e-mail or Internet Web sites or chat rooms.

MANS, an NGO, used the freedom of information law to obtain a 2007 government agreement with the communications company M:tel giving police around-the-clock access to all forms of communication it provided. In response to a civil suit by MANS representatives on March 28, the Agency for Personal Data Protection ordered M:tel to cease giving police personal data, stating that the agreement violated the law and constitution. On November 3, Podgorica's basic court annulled the agreement between the police and the communication company for violating the citizens' rights to privacy; it found the agreement contradictory to the constitution and the European Convention on Human Rights. The court also ordered the police and M:tel to pay a total sum of 1,000 euros (\$1,300) for trial expenses.

There was no evidence that the government collected or disclosed personally identifiable information about persons based on that person's peaceful expression of political, religious, or ideological opinion or belief.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution and laws provide for freedom of assembly and association, and the government generally respected these rights in practice. A wide range of social, cultural, and political organizations functioned without interference, but authorities denied disgruntled workers the right to assemble and express their grievances on several occasions.

Freedom of Assembly

According to the media, police rejected more than 200 applications for permission to assemble in 2010-2011, most of them organized by disgruntled workers. The police justified their actions by contending that the assemblies would cause a public hindrance, and in some cases authorities offered the protesters other locations for their demonstrations. On April 11, the YIHR applied to the Constitutional Court for an assessment of parts of the Law on Public Assemblies. The YIHR claimed that certain provisions that permitted government bodies to prohibit peaceful assemblies violated the constitution. The court did not respond to this request by year's end.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

For the most part, the government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Internally Displaced Persons (IDPs)

Data released in October by the Bureau for the Care of Refugees categorized 9,367 persons who fled Kosovo during the 1999 conflict as IDPs, since at the time of their flight, the territories of present-day Montenegro and Kosovo were part of the same country--the State Union of Serbia and Montenegro. Another 3,776 persons were categorized as "displaced persons" or DPs. Most of them were ethnic Serbs from Bosnia-Herzegovina and Croatia who fled those areas in 1991-95 during the conflict that attended the breakup of Yugoslavia. Authorities asserted that these persons had not crossed recognized borders at the time of their flight and could not be considered refugees. The UNHCR, on the other hand, regards both groups as having been "refugees" at the time of their arrival.

The status of both DPs and IDPs was temporary and their rights were limited, increasing their economic and social vulnerability.

The treatment of DPs and IDPs was not equal. The law recognizes DPs as lawful residents, a designation that could lead to citizenship through satisfaction of a length-of-residence requirement or through marriage to a citizen. However, the law denies these privileges to IDPs on the grounds that the Government of Serbia, the “succeeding state” following the breakup of Serbia-Montenegro, was responsible for them.

A number of DPs and IDPs continued to live in substandard dwellings, struggle with rental payments in private accommodation, and fear eviction from illegally occupied facilities known as informal collective centers. Besides these centers, there remained two camps for displaced persons, populated mainly by Roma IDPs from Kosovo, in the suburbs of Podgorica. Restricted access to employment pushed many DPs and IDPs into gray-market activities. Romani, Ashkali, and Egyptian IDPs from Kosovo were particularly affected and continued to form the most marginalized and vulnerable segment of the displaced/refugee population. In 2010 legislation was enacted that restored to DPs and IDPs the right to work, of which they had been deprived by law in 2000.

Amendments enacted in 2009 to the Law on Foreigners required all DPs and IDPs to register; successful registration would confer the status of “permanent foreign resident” and give them the right to seek work and access health care on an equal basis with Montenegrin nationals. The initial deadline for registration was November 7. The government worked with the UNHCR to implement a program of outreach to acquaint the target populations with the benefits. The UNHCR recognized the government’s commitment but stated that additional measures, such as assistance with documentation, were needed to facilitate the registration process.

The registration was only partly successful. In the first 11 months of the year, approximately 6,700 DPs and IDPs, fewer than 40 percent of the target population, applied for the status of foreign resident under the amended law. Slightly fewer than half of the applicants had been successful by year’s end; some were still in the application process. After extensive lobbying from the UNHCR and EU, the government extended the deadline to December 31, 2012. There were a number of obstacles to registration. Despite government efforts to cooperate with neighboring countries to facilitate access to documents, it remained difficult to obtain the necessary documents from the country of origin because of the

bureaucratic and financial constraints on travel to those countries. The documentation requirement was a particularly difficult hurdle for Roma, Ashkali, and Egyptians, both those born on the territory of present-day Montenegro and elsewhere. Many had no birth records, either because their births were never registered or because their records were destroyed during the conflicts in the region. Those DPs and IDPs who were unable to overcome the documentary or other hurdles to registration as foreign residents could apply for the status of “temporary” foreign resident, valid for up to three years, while they tried to obtain the necessary documentation for permanent foreign resident status.

By law persons with the status of permanent foreign resident have access to the same rights as citizens except the right to vote. In practice they did not have such rights as ownership of real estate, and their access to employment and education was limited. Further, temporary foreign residents, who should have the same rights as permanent foreign residents, did not in practice, especially when it came to employment and health care.

In July the government adopted a new multiyear strategy to deal with the problems of DPs and IDPs. It was developed in cooperation with UNHCR and EU, and adopted through their strong advocacy. A Coordination Board, chaired by the deputy prime minister, was established to lead and monitor its implementation. The government agreed to incorporate all the outstanding refugee issues raised by the EU and the UNHCR, which were outlined in the accompanying action plan. It was too early to evaluate the effectiveness of the new strategy.

The government continued to encourage DPs to return to their places of origin, but repatriation slowed to a trickle. By contrast more than 600 refugees from Bosnia and Croatia acquired Montenegrin citizenship between May 2008 and August 2011, in many cases through marriage to citizens.

Protection of Refugees

Access to Asylum: The country’s laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. A path to citizenship was available only to a limited number of refugees holding DP status.

Access to Basic Services: Conditions for refugees varied. Those with relatives or property in the country were able to find housing, and in some cases, to rejoin family members. Exceptions were approximately 2,000 refugees holding DP

status, who remained in barely habitable facilities that had been privatized. On July 4, the executive service of the Kotor Basic Court, with police assistance, evicted six IDP families from a holiday resort in Kamenovo owned by the company Recreatours. In April Recreatours paid damages to 13 IDP families. All tenants moved out without further claims.

According to a joint survey conducted in May by the government, OSCE, and UNHCR, most of the vulnerable DPs lived in family settlements, while others lived in settlements with substandard housing designed as temporary accommodation.

A total of 235 persons sought asylum in the country during the year, a very large increase over 2010. The government did not have adequate facilities to handle this influx, but a reception center designed to house approximately 65 asylum seekers was under construction.

Stateless Persons

Citizenship is derived from one's parents. According to the UNHCR, there were no legally stateless persons in the country, but there were individuals who were de facto stateless. The most common problem confronting stateless persons, especially Roma, Ashkali, and Egyptians born on the territory of Montenegro or in Kosovo, was a lack of personal documentation. The UNHCR reported that there were 2,712 refugees at risk of statelessness. As of year's end, the government had not developed a procedure for systematically identifying, documenting, and registering stateless persons or persons at risk of statelessness.

According to the UNHCR, before 2010, when municipalities were responsible for registering births, they registered some Montenegro-born children of parents with DP or IDP status, but when the Ministry of Interior took over this responsibility it deleted these children from the citizenship registry book, claiming that their registration had no legal basis. Families were not formally informed of the Ministry of Interior's actions. There were no reports that authorities were seeking to review the ministry's decisions.

In the course of developing a new multiyear strategy toward the country's DPs and IDPs during the year, the authorities recognized that there might be some persons with no status. They announced that they would review any such cases to ensure all concerned individuals are granted the status of their parents, without additional

requirements for documents. At year's end there were reports that authorities were reviewing such cases.

During the year amendments to the law took effect that made citizens of the former Yugoslav republics eligible to apply for Montenegrin citizenship until January 31, 2012, provided they had identity cards and had resided in the country for at least two years prior to June 2006. They were not required to renounce their other citizenship.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

Recent Elections: According to the OSCE election observation mission, the 2009 Assembly elections met almost all OSCE and Council of Europe commitments. Nonetheless the mission's statement noted frequent allegations of electoral fraud and a blurring of state and party structures that created a negative atmosphere among many voters. As in previous elections, most opposition parties raised concerns regarding campaign and party financing and the overlap of state and political party structures. Allegations of pressure on voters and the purchase of voter identification documents were again reported by some opposition parties, the media, and certain individuals.

On September 8, legislation went into effect that brought electoral procedures into line with the 2007 constitution, one of the EU's seven key requirements for initiating negotiations for EU membership. The new law limits the suffrage to citizens, and would deprive permanent residents of this right beginning on January 31, 2012. However, amendments to legislation on citizenship, which entitled permanent residents to apply for citizenship, provided they did so by January 31, 2012, also preserved their eligibility to vote until that date. The number of persons affected was unknown, but the opposition Socialists People's Party claimed that it could be approximately 40,000.

Participation of Women and Minorities: Women remained underrepresented in higher levels of government. The president of the Supreme Court and the chief

state prosecutor were women. Nine women served in the 81-seat Assembly and one in the cabinet. There were no women in four out of nine standing Assembly committees. One of the country's 21 municipalities had a female mayor. One of 10 Assembly parties had a female leader. The election law that took effect on September did not establish any quotas for women in Assembly, but instead mandated that at least 30 percent of the candidates on each party list be women.

There were 20 members of ethnic minorities in the Assembly and three in the 17-member cabinet. Almost all minority groups except Roma, Ashkali, and Egyptians were represented in the Assembly. In connection with the new election law, the Assembly abolished the five seats set aside for ethnic Albanians, effective with the next Assembly elections. The right of affirmative action, which sets forth the right of representation in the Assembly for ethnic minority groups that win fewer than 3 percent of the votes or constituted less than 15 percent of the population, was extended to all minority groups.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, but the government did not implement the law effectively, and officials at times engaged in corrupt practices with impunity. The perception of the public sector as corrupt, particularly the executive and judicial branches, was widespread. On July 26, the Ministry of Finance published an assessment of public sector corruption, which concluded that the privatization process, public procurement, urban development, local administration, and the education and health care systems were the activities and sectors most vulnerable to corruption. Both the World Bank's worldwide governance indicators and Transparency International's 2010 report reflected the seriousness of the problem.

While many of the legal prerequisites for effective anticorruption policies were in place, implementation lagged. Efforts to investigate, prosecute, and convict officials, particularly those at high levels, for corruption remained ineffective. During the first six months of the year, the Office of the Chief State Prosecutor investigated nine individuals for corruption. It also issued indictments of six individuals. During the same period, the High Court tried 199 persons for corruption, reached verdicts in corruption trials involving 40 persons, and convicted 19 persons on corruption charges.

Internal controls carried out within institutions or by responsible agencies seldom resulted in efficient prosecution of the perpetrators. State employees often had

several functions and were permitted to be presidents or members of managing boards of public companies or state institutions.

On July 29, the Assembly adopted amendments to the Conflict of Interest Law depriving Assembly members of the right to serve as mayors or directors of public companies and administrative bodies.

In October MANS reported that of the 266 measures adopted by the government 18 months earlier and described as necessary to combat corruption and organized crime, only 25 percent had been fully implemented, 45 percent had been partly implemented, and the government had taken no action on 30 percent. The report noted that the Assembly failed to harmonize many laws with international conventions on organized crime.

Several high-ranking officials faced corruption charges during the year. On March 22, the Supreme State Prosecutor's Office indicted Budva Mayor Rajko Kuljaca, Deputy Mayor Dragan Markovic, and 10 associates on charges of abuse of power. Kuljaca was believed to have enabled the firm Zavala Invest to start construction of a hotel complex illegally on the protected Zavala peninsula. On August 8, the special public prosecutor for organized crime, Djurdjina Ivanovic, confirmed that her office was investigating the Bar Municipal Assembly and the mayor of Bar, Zarko Pavicevic, on criminal charges filed by MANS. According to media reports, the prosecutor was reviewing contracts between the City of Bar and the Bar Development Institute, a company owned by the mayor, as well as a number of other contracts between the city and private companies. The Office of the State Prosecutor was also collecting information about the former mayor of Ulcinj, Gzim Hajdinaga, related to alleged wrongdoing by the local parliament in the course of granting construction permits.

On March 2, the opposition party Movement for Change (PzP) filed criminal corruption charges against Uros Cukic, the party's former municipal representative in the northern town of Andrijevica, and the ruling Democratic Party of Socialists (DPS). PzP leader Nebojsa Medojevic told the press that the charges involved incentives offered by the DPS to Cukic to switch his allegiance from the PzP to the DPS and tip the balance in the local assembly.

Police corruption and inappropriate government influence on police behavior remained problems; the small, close-knit nature of Montenegrin society discouraged the reporting of corruption and made it easy for criminals, using family or social connections, to gain access to law enforcement officers.

During the year the Ministry of Interior and Public Administration's Internal Affairs Unit took disciplinary measures to address corruption. Internal investigations, combined with the work of the Council for the Civilian Control of Police Operations, the ombudsman, and human rights activists, reduced, but did not eliminate, impunity. NGOs noted that police officers found responsible for violating rules of service, as well as senior officers implicated in cases of torture, remained on duty. The OSCE and resident diplomatic missions continued to provide training for police, security, and border and customs officers on combating terrorism, corruption, and financial crimes.

Government officials were subject to financial disclosure legislation, and most complied in a timely fashion. During the year the Commission for the Prevention of Conflicts of Interest initiated proceedings against 473 officials and forwarded 248 of these to the misdemeanor courts. In the same period, the commission issued a total of 576 decisions concerning alleged violations of the law and called for the dismissal of 43 state officials for failing to comply with disclosure requirements. While the law provides for maximum fines of 825 to 1,100 euros (\$1,072 to \$1,430), the highest fine imposed by a court was 400 euros (\$520). The courts rejected most of the cases. During the first half of the year, the commission lacked the authority to verify disclosures by public officials. It also had weak enforcement powers.

In July amendments to the law on conflict of interest were enacted to strengthen the authority of the commission. It acquired the power to investigate the truthfulness of officials' disclosures about their property and income. The commission's chairman, Slobodan Lekovic, complained that its yearly budget of 240,000 euros (\$312,000) was insufficient to meet the new responsibilities of the commission.

Excessive discretion granted to officials in the disposition of public property likely encouraged corruption. For example, on February 18, media reported that the City of Podgorica gave city-owned apartments to several judges based on their "significant contributions to the city." According to data published online, since 2003, 216 apartments were given to municipal employees, persons in need, and persons Podgorica authorities deemed worthy.

The law provides some protection for whistleblowers, but it was inadequate in practice. For example, three former police officers--Enver Dacic, Mithad Nurkovic, and Suad Muratbasic--claimed they had to leave the country because of

threats they received when they spoke publicly about police complicity in transborder smuggling. Military authorities initiated two disciplinary procedures (on April 19 and May 26) against Nenad Cobeljic, president of the military trade union, for disclosing to the media information about corruption and abuses in the military. On December 29, the Ministry of Defense suspended Cobeljic “because of violations at work” but claimed that this action had nothing to do with trade union activities.

While open bidding was the most commonly used procedure for public procurement, many auditing reports identified inconsistent or irregular application of legal provisions or circumvention of the law in practice. On July 29, the Assembly adopted the Law on Public Procurement. Some observers, including the NGO Alternativa, complained that the new law failed to include important measures to strengthen transparency.

The constitution and law provide for public access to government information, but implementation was weak and inconsistent, in particular regarding some parts of privatization agreements. Some ministries were supportive of information requests, while others at times publicly criticized them. According to MANS, the ministries of sustainable development and tourism, defense, and economy had the least capacity to implement the law. The level of access did not differ for noncitizens or the foreign or domestic press.

NGOs reported that their requests for government-held information frequently went unanswered. In the case of MANS, which was well known for contesting government inaction, authorities provided timely responses to approximately 38 percent of its requests. In May the Administrative Court overruled the denial by the chief state prosecutor and the Ministry of Justice of Human Rights Action’s request for information about measures the prosecutor took in connection with 14 cases involving allegations of official malfeasance. According to MANS, agencies usually refused to give information that could reveal corruption or illegal activity, particularly involving the privatization process. MANS reported that citizens preferred to submit requests through NGOs rather directly to government offices.

Authorities usually provided reasons for their denials (such as threats to state interests or to the business interests of the contracting parties), and these could be appealed to the higher-level state bodies or courts. The courts usually supported such appeals: the Administrative Court ruled favorably on 77 percent of the 4,879 complaints filed by MANS from 2005 to 2010. However, court orders to the ministries to comply with specific requests were often ambiguous and,

consequently, sometimes ignored. During the first six months of the year, MANS sent 129 complaints to the ombudsman regarding cases in which it alleged the courts' decisions were not enforced.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to the views of international groups, but some of the many domestic NGOs regarded cooperation as only nominal.

Almost 4,500 domestic registered NGOs operated in the country, including those specializing in human and minority rights and women's rights. According to NGOs, authorities provided minimal assistance. On January 25, a Council for Cooperation between the government and NGOs was established, and on July 22, the Assembly adopted the Law on NGOs. The new law, which was scheduled to enter into force on January 1, 2012, established criteria for establishing an NGO, provided details of bookkeeping, centralized the distribution of budgetary resources from public funds appropriated for NGOs, specified criteria for funding NGOs, and stipulated the auditing of donated funds.

During the year human rights activist Aleksandar Zekovic told the media that the Office of the Basic Prosecutor had acknowledged that during its four-year investigation of his allegations that police threatened him, they had not listened to an audio recording of the threats, which he had sent them when he initially reported the incident. Zekovic contended that the audio recording would enable authorities, as it had enabled him, to identify the person who made the threats. The statute of limitations led to the termination of the investigation during the year.

Government Human Rights Bodies: There is an ombudsman for human rights, who operated without government or party interference, but received inadequate resources. The public awareness of the ombudsman's role increased. The ombudsman was active and established good cooperation with NGOs. Upon finding a violation of human rights or freedoms by a state agency or institution, the ombudsman can take disciplinary measures, including dismissal, against the violator. Failure to comply with the ombudsman's request for corrective action within a defined period of time is punishable by fines of 500 to 2,000 euros (\$650 to \$2,600).

The ombudsman may investigate alleged human rights violations by government authorities and take measures to remedy them; inspect, without prior notification, all spaces in prisons and other premises where detained persons are held; propose new laws; request from the Constitutional Court an assessment of whether a law violates the constitution or international treaty obligations; provide an evaluation of human rights issues, upon request of a competent body; address general issues that are important for the protection and promotion of human rights and freedoms; and cooperate with other organizations and institutions dealing with human rights and freedoms. The ombudsman may act upon complaints about ongoing judicial proceedings only when the complaints involve delays, obvious procedural violations, or authorities' failure to carry out court decisions.

A law adopted on July 9 permits the ombudsman to represent citizens who complain of discrimination, but not those who allege torture or cruelty. Critics asserted that it failed to define with sufficient precision the ombudsman's responsibilities for protecting personal data and personal documents. The majority of complaints submitted to the ombudsman concerned lengthy procedures before competent state and local authorities and inconsistent or unfounded decisions by local government institutions. The government and the courts generally implemented the ombudsman's recommendations, although with delay.

Although the Assembly's Standing Committee for Human Rights and Freedoms increased its activities and met several times during the year, its contribution was perceived by many observers as insignificant.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and laws prohibit discrimination based on race, sexual orientation, gender, disability, language, or social status. The government did not effectively enforce these prohibitions. Although the Assembly in July 2010 adopted a comprehensive law prohibiting discrimination based on these and other grounds, the Office of the Ombudsman, which is responsible for the law's implementation, lacked the human, technical, and financial resources for its enforcement.

Government efforts to combat discrimination were modest. At the end of May, the Ministry for Human and Minority Rights launched a 75,000 euro (\$97,500) campaign to prevent discrimination based on gender, sexual orientation, and disability. A group of NGOs called unsuccessfully for an end to the campaign, claiming that it was superficial, stilted, not focused on actual challenges, and not

delivering positive results. In November the government made a final decision to establish an Antidiscrimination Council chaired by the prime minister.

Women

Rape and Domestic Violence: The penalty for most forms of rape, including spousal rape, is one to 10 years in prison. In cases where the victim is younger than 14, suffered serious bodily injury, or was the victim of several perpetrators, punishment could be more severe. In practice sentences were generally much more lenient.

Deeply ingrained societal attitudes hampered the prosecution of rape cases. Victims were reluctant to report crimes due to the cultural stigma that attaches to victims and their families. Judges frequently allowed aspersions to be cast upon a victim's character in court proceedings. Three cases of rape and four cases of attempted rape were reported to police during the year. There were no arrests or convictions for spousal rape during the year.

Violence against women, including domestic violence, was a persistent and common problem. NGOs working with abused women plausibly claimed that a significant number of incidents were unreported due to fear of reprisals from attackers or lack of measures to prevent reoccurrence. Official agencies, including police and to some extent the judiciary, appeared to be more responsive to complaints about domestic violence, but observers considered their efforts inadequate.

Domestic violence is punishable by fine or imprisonment, depending on the seriousness of the offense. In 2010, according to judicial authorities, courts convicted 206 persons of domestic violence, of whom 54 received prison sentences, 131 were given suspended sentences, 20 were fined, and one was sentenced to mandatory supervision. During the first six months of the year, police received accusations of family violence involving 151 victims, 142 of them women; police filed criminal charges against 131 individuals, 127 of them men.

Lengthy trials, economic dependence, and lack of alternative places to live often led victims and perpetrators to continue to live together, resulting at times in additional assaults and greater hesitation of victims to report them. NGOs were concerned by the statements of some local politicians that family violence was a private problem in which competent institutions should not interfere. Local NGOs working to combat domestic violence relied to a large extent on international donor

assistance. State efforts to protect victims of domestic violence were inadequate. According to NGOs and the ombudsman, female victims of domestic violence often complained that government-run social welfare centers did not respond adequately to their appeals for help. The ombudsman requested that the work of the social welfare centers be improved. Children who were victims of domestic violence were sometimes accommodated in the children's correctional facility in Ljubovic or the orphanage in Bijela.

Authorities generally acknowledged the importance of combating family violence and enacted legislation and introduced administrative measures to this end, but they did not allocate adequate resources and effort necessary to achieve their goals. NGOs operated two shelters for victims of domestic violence in the central part of the country but did not address the needs of victims in the north and other rural areas. Women's advocacy groups worked to combat domestic violence through awareness campaigns and sought to improve women's access to legal services and workshops.

Sexual harassment: Sexual harassment is illegal but remained a problem, and society generally tolerated it. Victims were hesitant to report harassment, although police were usually effective in intervening when asked to do so. Although 7.5 percent of employed persons who participated in surveys conducted by the Social Council in March 2010 stated that they had been victims of workplace harassment, no instances of such harassment were reported during the year to Labor Inspection Unit of the Ministry of Labor and Social Welfare.

Reproductive Rights: The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs operated freely in disseminating information on family planning under the guidance of the Ministry of Health. There was free access to contraceptives and to skilled attendance during childbirth, including essential obstetric and postpartum care. The government provided free childbirth services.

Women and men received equal treatment in the diagnosis of, and care for, sexually transmitted infections.

Discrimination: The constitution provides for gender equality. Women have the same legal rights as men in property law, family law, and the judicial system. In practice women did not enjoy equal legal, economic, or social status with men.

Traditionally, women rarely inherit property. The NGO SOS pointed out that it was difficult for women to defend their property rights in divorce suits. According to a survey conducted by the NGO, 58 percent of divorced women initiated proceedings for the division of marital property, but only 3 percent of them received property after proceedings, which lasted six years on average. One emerging trend involved husbands in divorce proceedings titling their property in the name of other family members or friends rather than their wives. Traditional patriarchal ideas of gender, according to which women should be subservient to male members of their families, resulted in continued discrimination against women in the home. For example, 84 percent of illiterate persons were women. In rural areas women could not always exercise their right to control property, and husbands occasionally directed their wives' voting.

Widespread, albeit mostly tacit, discriminatory cultural norms prevented women from equal participation in all areas of social development and generally discouraged them from seeking work outside the home. When they did so, they faced discriminatory treatment in the labor market, particularly in the trade and service sectors. Employers frequently violated women's legal entitlement to a 40-hour workweek, overtime, paid leave, and maternity leave. Expectations regarding women's obligations toward the family adversely affected their opportunities for advancement. Harassment at work was often unreported due to the victim's fear of being fired and a lack of information on legal remedies. No all-inclusive statistics were available regarding women in managerial positions, but few women held senior management positions in government or commerce. Men far outnumbered women in senior positions, even though more women had college degrees. Some job announcements openly specified such discriminatory employment criteria for women as age and physical appearance. In the police department, women accounted for only 13.4 percent of the staff and in the army, 8.6 percent. But an increasing number of women served as judges, and there were many women in such professional fields as law, science, and medicine.

Educational opportunities for women from the Romani, Ashkali, and Egyptian communities were limited due to traditional values and societal prejudice. Due to poor education and harsh living conditions, Romani women seldom visited gynecologists or obstetricians, with negative consequences for their health and for infant mortality rates.

Although the law incorporates the general principle of nondiscrimination against women, it does not explicitly address the principle of equal pay for equal work. In practice, women's wages were lower than those of men for comparable work. A

distinction between “male” and “female” professions was entrenched. In 2010, according to a February report by the NGO European Movement in Montenegro, women earned an average of 14 percent less than men.

A standing Assembly committee for gender equality, which has 11 members, held nine meetings during the first nine months of the year and proposed various measures for advancing policies and strategies aimed at enhancing gender equality.

Children

Birth Registration: Citizenship is derived from one’s parents, by birth in the country’s territory, through naturalization, or as otherwise specified by international treaties governing the acquisition of citizenship. Roma, Ashkali, and Egyptians registered the births of their children at lower rates than other groups, mostly due to the lack of awareness of the importance of civil registration and a lack of documentation of the parents’ identities. Consequently some children in these communities continued to lack birth or registration documentation. Their children were not well integrated into the broader community and discrimination against them remained widespread.

Education: By law primary education is free and compulsory. Nonetheless human rights observers reported that the government did not undertake adequate efforts to monitor the education of Romani children. In May 2010, according to government data, only 47 percent of the 2,587 children in these communities between the ages of six and 15 were attending primary school. A much smaller proportion continued to secondary and higher education. Impediments often included a lack of knowledge of the language of instruction, poverty, and tradition. Many parents did not want their children, particularly girls, to go to school, preferring that they stay at home and marry at an early age. There were no textbooks in the Romani language.

Tuition for primary education was free, but except for those whose families who benefited from social welfare programs, students’ families had to provide books and school supplies. The government provided books for children without parents, those with disabilities, special social cases, and children in the Romani, Ashkali, and Egyptian communities. The ombudsman noted, however, that the government failed to provide sufficient books in a timely fashion to such pupils in higher grades. NGO programs and grants helped provide books and other school resources for Romani, Ashkali, and Egyptian children.

Child Abuse: There were few reported cases of child abuse. The government took little action to investigate the issue, and the legal requirement that a parent or guardian be present in order for a juvenile to make an allegation of a crime was a particular disincentive to reporting family-related abuse. The country lacked proper facilities for children who suffered from family violence. The ombudsman has noted that social welfare centers failed to provide adequate child protection in a number of cases. During the first nine months of 2010, social welfare centers received complaints about the mistreatment of 72 children belonging to 27 families. A shelter for victims of family violence run by the NGO Safe Woman's House during 2010 accommodated 17 children. In December the Assembly adopted a juvenile justice law which gathered all the provisions on juvenile justice into one law and separated legislation on juveniles from the law for adults. This was intended to improve the treatment of juvenile offenders and provide adequate treatment to underage victims of crime.

Media coverage of crime stories continued to violate the privacy rights of children by publishing details about them, including personal information.

Many Romani, Ashkali, and Egyptian children began to work both at home and in the streets at an early age, typically around age seven, to contribute to the family income. Often, the parents and relatives of Romani children forced them to beg at busy intersections, on street corners, from door to door, and in restaurants and cafes. Many children were from nearby countries. According to the ombudsman's report on child begging in 2010, authorities registered 332 persons aged 10 to 16, begging in the streets, most of whom were non-Montenegrin nationals. But competent authorities failed to report adequately the incidence of child begging, especially in the cities of Berane and Andrijevica, whose officials reported no instances of child begging in the year.

The deputy ombudsman investigated alleged violations of children's rights. The office of the ombudsman received 59 complaints in 2010 and made 11 recommendations to the appropriate authorities, mainly involving socially vulnerable children who had disabilities or were poor, orphaned, or living in institutions. A survey by the NGO Center for Children's Rights in cooperation with 19 other NGOs noted an increase of juvenile delinquency, drug use, and begging, and violence against minors. Romani children remained a particularly vulnerable group, and many problems involving refugee children were still not resolved. Mid-2009 estimates of the number of children with disabilities ranged between 6,000 and 7,000.

Child Marriage: The minimum age for legal marriage is generally 18, but an individual may legally marry at the age of 16 if a court consents. Child marriage was a problem, particularly in Romani communities, where boys and girls generally married at approximately age 14. These marriages are considered illegal and not officially recognized.

Sexual Exploitation of Children: The age of consent is 18. There is a statutory rape law. The penalties for rape are higher if the victim is a minor. Child pornography is illegal, and punishment ranged from six months' imprisonment for displaying child pornography to five years for using a child in the production of pornography.

Institutionalized Children: A March report by the ombudsman, regarding the status of persons with disabilities in the orphanage in Bijela, described conditions for children with mental disabilities as inadequate. Problems included overcrowding, and a shortage of professional staff. Accessibility for persons with physical disabilities was also inadequate. In a report on its 2008 visit to the country released in March 2010, the CPT criticized the treatment of 15 children in the Komanski Most Institution for Persons with Special Needs, where children with mental disabilities were held together with adults in unsanitary conditions and without sufficient supervision to prevent their mistreatment. Since the visit, authorities have taken a number of steps to respond to these criticisms (see Persons with Disabilities).

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

The country's Jewish population was small--approximately 18 households--and widely distributed across the country. On July 31, the Jewish Community, an NGO, was established in Herceg Novi with the aim of preserving the traditions and customs of Jewish people. Most of the country's Jewish inhabitants were descendants of persons who fled to the country from Bosnia and Serbia after the beginning of World War II. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the State Department's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, pensions, allowances, family care and support, buildings, information and communication. The constitution also provides persons with mental disabilities with the right to be placed in adequate residential institutions and the right to foster care and support or other state services. However, societal discrimination against persons with disabilities effectively limited their access to these benefits, and authorities did not actively prosecute infractions. While authorities generally enforced the requirement that new public buildings include access for persons with disabilities, a continuing lack of access to older public buildings, hospitals, and public transportation was a problem.

Although there were some improvements in government efforts to address the rights of persons with disabilities, they remained one of the most vulnerable population groups, often abandoned and marginalized. According to the 2011 census, 11 percent of the population had difficulty performing everyday activities due to illness, disability, or age. The ministries of health, labor and social welfare, education and sports, science, culture, and human and minority rights have responsibilities for protecting the rights of persons with disabilities.

On May 19, the government adopted a law on discrimination against persons with disabilities that complemented the legal framework by specifying the forms of discriminatory actions that were illegal. Authorities improved facilities available to persons with disabilities confined in the Komanski Most Institution for Children with Disabilities. Nevertheless the government announced during the year that a legal deadline requiring all public facilities to be accessible by 2013 would likely be extended.

Discriminatory treatment persisted. Regulations providing protection, encouraging employment, and securing housing for persons with disabilities were not consistently implemented. Although persons with disabilities are entitled to health care within the general health care system, often it was not delivered in a satisfactory manner. For example, a student in the “June 1” center for children and youth complained to the ombudsman that the dentist in the Podgorica clinical center refused to provide her with medical help because the dentist was frightened by her handicap. Disability allowances were inadequate. Education for children with mental and physical disabilities remained inadequate. Many parents turned to the ombudsman because their children had problems in schools; the ombudsman

recommended that assistants be introduced as a mandatory requirement for the education of children with special needs. The government continued to implement its plan to construct daycare centers for children with disabilities in all 21 municipalities; six centers were in operation by year's end.

Unemployment remained a serious problem for persons with disabilities. Authorities provide incentives to employers who hire persons with disabilities and penalties for those who do not meet a quota system for employing them. Employers who do not abide by the law must contribute to a fund for helping persons with disabilities, but they often chose this option in the belief that employees with disabilities would be unable to meet the requirements of the job. NGOs claimed that the fund dispensed little money with few visible results and objected to its practice of returning unused funds to the state budget at the end of the budgetary year. The nontransparent use of these funds garnered significant public concern.

NGOs contended that the government was significantly behind in implementing its plan to integrate persons with disabilities.

According to the Association of Young Persons with Disabilities, 10 persons with disabilities were studying at local universities during the year, compared with three in 2001.

Despite laws entitling persons with mental disabilities to accommodation and education in institutions appropriate to their needs, mental health care remained inadequate. Institutionalized persons often become wards of the state and live in isolation in outdated and underfunded treatment facilities. Institutionalization perpetuated stigmatization of the mentally ill. A December 1 NGO report on psychiatric and mental hospitals in Kotor, Podgorica, and Niksic cited many of these deficiencies. At the same time it noted that the authors had observed no instances of the mistreatment of patients.

Partly in response to the CPT's March 2010 report, which detailed the "appalling" mistreatment of residents of the Komanski Most Institution for Persons with Special Needs, authorities initiated or continued a number of improvements in that institution during the year. Physical conditions remained substandard in some respects and staff shortages persisted, but there were improvements in the women's section and cafeteria. A central heating system and video surveillance were installed. Children were separated from adults and men from women. Educational opportunities outside the institution were made available, and more flexible daily

activity plans were developed. Use of the isolation room was discontinued and use of leather restraints was strictly limited and recorded in a log.

In June authorities reached an agreement with six NGOs that permits them to make unannounced visits to Komanski Most and the Ljubovic Center for Children and Youth, a correctional facility for juvenile offenders. On November 15, the NGOs presented a report on Komanski Most that noted a significant improvement in the residents' living conditions, primarily due to a change in managing directors (in 2010), as well as additional investment in refurbishment. However, the report found that recent increases in personnel were insufficient to resolve a considerable shortage in staff and health services needed further improvement.

National/Racial/Ethnic Minorities

The constitution and law on minority rights provide both individual and collective rights for minorities, and these provisions were generally observed for most groups, but Roma, Ashkali, and Egyptians were disadvantaged in access to social services and continued to experience societal discrimination.

According to government statistics, in 2009 more than 50 percent of school-age children from the Roma, Ashkali and Egyptian communities were not integrated into the obligatory primary education system. Those school systems that are integrated often maintain institutional and geographic segregation. For example, the Bozidar Vukovic primary school continued to maintain a remote facility in the Konik refugee camp in Podgorica that was attended only by Romani, Ashkali, and Egyptian students. During the year Romani NGO leaders renewed their request that authorities eliminate this type of de facto school segregation. During an assessment of the country in February, the European Commission against Racism and Intolerance warned that the continued separation of Romani children from children of other ethnic groups would seriously impede the integration of Roma into society.

According to the Fund for Providing Roma Scholarships, an NGO, the primary-school dropout rate for students belonging to these minorities was approximately 50 percent in the 2010-11 academic year. There was some progress enrolling students from these communities in secondary school. The number rose from 37 students in 2009-10 to 65 in 2011-12. Only eight individuals attended university in 2010-11.

According to 2011 census, Roma, Ashkali, and Egyptians constituted approximately 1 percent of the population. According to 2009 UN data, approximately 40 percent of them lacked birth or citizenship certificates. Many, including IDPs from Kosovo, lived illegally in squatter settlements, often widely scattered, and lacked such basic services as public utilities, medical care, and sewage disposal. The 2008 Law on Citizenship and its accompanying regulations made obtaining citizenship very difficult for persons without personal identity documents (see section 2 d.). According to the UNDP, approximately 70 percent of Roma were illiterate, 50 percent were unemployed, and 36 percent lived below the poverty level.

Societal prejudice against Roma, Ashkali, and Egyptians was widespread, and local authorities often ignored or tacitly condoned it. Members of these minorities lacked political representation and generally stayed out of politics. They occasionally lacked access to advanced medical professionals, such as surgeons and other specialists, that was available to other residents. According to a study carried out by three NGOs, the Monitoring Center, Juventas, and Cazas, the greatest barriers facing Roma, Ashkali, and Egyptians in the labor sector were inability to speak the national language, lack of education, and employer discrimination. In August the government introduced tax incentives aimed at encouraging private entrepreneurs to hire Roma, Ashkali, and Egyptians.

The government has a formal strategy and action plan for improving the situation of Roma in 2008-12 but took no significant measures to advance it during the year. Authorities appropriated 325,000 euros (\$423,000) during the year to implement the action plan, a much smaller amount than envisaged by the strategy. A group of human rights NGOs accused the government of failing to establish the proper mechanisms to monitor funding for projects aimed at the country's Roma, Ashkali, and Egyptian communities.

The Albanian National Council requested new textbooks for Albanian students and more involvement of Albanian authors in writing them.

The leaders of ethnic minority communities continued to allege that the government did not comply with the constitutional requirement of affirmative action for minorities. They asserted that these rights included ethnic representation in the National Assembly and in local self-government assemblies in areas where a minority group forms a significant share of the populations. They also complained that minorities were underrepresented in the government administration, the judiciary, and state-owned economic enterprises. A study conducted in June by the

Ministry of Human and Minority Rights showed a large imbalance in the ethnic distribution of public sector jobs. Ethnic Montenegrins, who constituted less than half of the population, held 79 percent of public administration positions. At year's end, there were two Roma in the central administration and none in local government bodies. Nevertheless, amendments to the election law enacted on September 8 to enhance affirmative action gave minorities additional representation in the National Assembly. It applies to minorities that win less than 3 percent of votes and those that constitute 15 percent or less of the population. This law has received mixed reactions from minority communities; ethnic Albanians were displeased that their set-aside Assembly seats were eliminated, while others welcomed the opportunity to have representation in the government.

A government Fund for Minorities financed national councils intended to represent the interests of minority groups. There were national councils for Serbs, Bosniaks, Albanians, Muslims, Croats, and Roma. The fund continued to be the focus of public attention for alleged misappropriation of funds. Authorities provided 800,000 euros (\$1.04 million) to the councils during the year to implement specific projects. In March the State Auditing Office reviewed the work of the fund and concluded that its internal auditing system was imprecise and inefficient. Auditors also reported that the fund failed to monitor the implementation of approved projects and did not evaluate their results. The authorities decided to allocate 2011 funds to the councils on October 31, one day before a ban took effect prohibiting participation by members of the Assembly in institutions like the fund (see section 4). On November 10, the NGOs Montenegrin Legal Committee for Human Rights Protection and Civic Alliance sued the members of the fund for embezzlement, claiming that they acted to advance their own personal interests.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Lesbian, gay, bisexual, and transgender (LGBT) persons continued to experience discrimination, ostracism, and social exclusion. The authorities introduced a number of antidiscrimination regulations and showed a better understanding for their rights, but societal antipathy led most LGBT persons to conceal their orientation.

During the year a number of NGOs continued to demand the dismissal of the minority and human rights minister, Ferhat Dinoa, because of his “incompetent, intolerant, and homophobic statements.” On March 28, the minister rejected an invitation by LGBT activists to be involved in organizing a gay pride parade and

indicated that he opposed the holding of such an event. In a June 14 radio interview, he stated that the government was “ready to protect, but not to promote” the country’s LGBT population. Dinosa resigned on November 26 to become ambassador to Albania.

LGBT Forum Progress is the only NGO focused solely on LGBT rights. Another NGO, Juventas, made these rights one of its focus issues. In April, with the support of the UNDP and the Global Network for Funding of LGBT Rights, Juventas opened a counseling center in Podgorica for the LGBT community.

On May 17, organizers of an inaugural pride parade, scheduled for May 31, announced that it would be postponed due to a perceived lack of support from state authorities. They asserted that the government was reluctant to appoint a representative to the event’s organization board and to designate an official to march in the parade. The government asked the organizers to reconsider the postponement, asserting that its support for the parade was more significant than its actual participation in it.

A group of NGOs refused to participate in a government-sponsored international conference on LGBT rights on September 2-5 on the grounds that the government had failed to adopt an anti-homophobia action plan or dismiss Ferhat Dinosa from his ministerial position for alleged homophobic remarks.

There were several reports of LGBT-related hate crimes and discrimination. On May 17, a concert organized in support of LGBT rights was halted when an unidentified person threw tear gas, which caused the crowd to disperse. Afterwards a group of hooligans assaulted two individuals they believed to be gay in the center of Podgorica. On August 9, several foreign tourists reported that they were expelled from the beach at Ratac, near Bar, because of their sexual orientation. Observers asserted that many incidents were not reported because victims were reluctant to come forward in light of the lack of understanding by police and other officials. LGBT Forum Progress filed three discrimination complaints during the course of the year. Juventas filed a lawsuit against unknown persons for writing threatening graffiti against the LGBT population on various places in Podgorica in June, July, and August. While the lawsuit lacked names of the perpetrators, the NGO wanted to raise public awareness of these issues.

On November 24, the NGO Center for Civic Education sponsored the first television spot promoting LGBT rights. It included the first publically displayed

kiss between two men and triggered sharp reactions, including death threats against one of the actors.

LGBT Forum Progress opened the first LGBT shelter in December with assistance by the Dutch government. To date, it has housed four individuals. The NGO Juventas opened the first online service for reporting homophobic violence.

Other Societal Violence or Discrimination

There were no reports of violence against persons with AIDS. The NGO Juventas stated that persons with HIV/AIDS were stigmatized and experienced discrimination. Observers believed that fear of discrimination prevented many persons from seeking HIV testing. The NGO Cazas runs the only center for psychological support to assist persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The labor law permits workers the freedom to organize a trade union and to conduct trade union activities without prior consent. The Law on Trade Union Representatives allows unions to engage in collective bargaining and other activities without government interference. The law provides workers the right to strike, except for the military, police personnel, and public servants if they would jeopardize general public interest, national security, safety of people and property, or functioning of the authorities. The law prohibits employer discrimination against union members or those seeking to organize a union, and employers may be fined or sentenced to one year of prison for violating the law. Workers dismissed for union activity have the right to reinstatement. The law provides for the right to bargain collectively.

Under the law collective bargaining agreements cover only the registered workforce. In November 2010 representatives of the government's Social Council, the Union of Employers, and the Confederation of Trade Unions of Montenegro signed amendments to the general collective agreement to align the agreement with the labor law, introducing a minimum wage and other rules regulating collective bargaining. The new collective agreement entered into force on January 1. The Union of Free Trade Unions of Montenegro described the amendments as detrimental to workers, but the Constitutional Court declined its request to review the issue. A December 21 agreement that included both the Confederation of

Trade Unions and the Union of Free Trade Unions extended the validity of the General Collective Agreement through June 2012.

The law provides for out-of-court settlements of individual and collective labor disputes. Between September 2010 and December 2011, the agency created to arbitrate such disputes reviewed 356 cases involving 6,000 parties. It decided 296 cases, but in many instances employers failed to abide by the agency's decisions.

None of the protections available to legally registered workers applied to unregistered workers, many of whom came from abroad and did not have employment contracts. According to the national employment agency, between 15,000 and 50,000 unregistered workers (30,000 domestic and 20,000 foreign) were employed during the summer season primarily in construction, trade, tourism, agriculture and catering.

In practice workers frequently exercised the right to strike. Collective bargaining remained at a rudimentary level and was hampered by the fact that only the unions with the largest membership in a given plant could be parties to collective agreements. There were reports from both private and public sector employees that employers threatened or otherwise intimidated workers engaged in union organizing or other legal union activities. In some cases employees' salaries were cut and some were dismissed. In the case of dismissals, years could pass before workers regained employment due to extensive court delays. The government's efforts to enforce labor law were inconsistent.

In February a trade union protested a decision by the management of Tei Mon Company to fire five workers for their participation in a strike and to hire two workers to replace them. In June the trade union from the Podgorica Aluminum Plant (KAP) complained to the Ministry of Labor and Social Welfare and to the Labor Inspectorate that KAP's management had illegally docked the salaries of employees who were union members. In September a contract soldier was fired from the military forces, allegedly due to his membership in a union.

Many workers in privatized or bankrupt companies had outstanding claims for back payment of salaries and severance pay. Several local governments failed to pay their staff for months on end. Unpaid wages and factory closures led to large-scale strikes. The law provides some recourse, and parties have reached settlements in the past involving some compensation, but these were exceptions. The law requires employers to make substantial contributions to pension, social,

and health-care funds. To avoid these payments, employers often did not officially register their employees.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, but there were reports that individuals were trafficked to, from, and within the country for labor, particularly sex trafficking and work in construction. Forced begging by Romani children remained far the most prevalent form of compulsory labor.

Also see the State Department's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

There are laws and policies to protect children from exploitation in the workplace, and the government generally enforced these laws and regulations effectively in the formal economy. While the official minimum age for employment is 15, it was common in farming communities to find younger children assisting their families. Children under 18 may not work in jobs that involve particularly difficult physical work, overtime and night work, or underground or underwater work or in jobs that “may have a harmful effect or involve increased risk for their health and lives.” The law specifies monetary penalties for violation of these provisions, with fines ranging from 10 to 300 times the minimum wage.

Romani children worked in a variety of unofficial retail jobs, typically washing car windows, collecting items such as scrap metal, or selling old newspapers. Many Romani children engaged in begging. Police asserted that the practice constituted isolated family begging rather than organized begging. In Podgorica and the coastal areas, police continued an initiative aimed at suppressing begging. They arrested and charged several adults with organizing and forcing their relatives, mostly young Romani children, to beg. Police pressed charges against the perpetrators while the children were sent to their families. Observers believed that authorities had insufficient information on the scope and nature of the begging and lacked serious support systems for this operation.

Inspectors from the State Labor Inspector’s Office were responsible for enforcing the child labor laws within the formal economy. Apart from begging, which is not considered “work” under the law, inspectors reported no violations of child labor laws during the year. The ministry has 37 inspectors in eight branch offices

covering all labor issues. No resources were devoted exclusively to investigating child labor.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

According to the National Statistics Office, in May the average monthly wage, without taxes and contributions, was 479 euros (\$ 623), a decrease of 1.6 percent from 2010. The national minimum wage in May was 143.7 euros (\$187) per month. The government statistics office estimated that approximately 6.8 percent of the population lived below the absolute poverty line, set at 170 euros (\$221) per person per month in 2010, compared with 4.9 percent in 2008. Significant portions of the workforce, particularly in rural areas and the informal sector, earned less than the minimum wage.

The law establishes a 40-hour workweek (except in specified unusual circumstances) and requires an unspecified premium for work in excess of 40 hours. It prescribes a 30-minute daily rest period. Overtime is limited by the Labor Law to 10 hours per week, but seasonal workers often worked much longer. Many workers, particularly in commerce, were deprived of their rights to weekly and annual leave but often did not report the violations of their rights for fear of repercussions.

The use of "temporary" workers was a major issue between trade unions and employers, since employers had considerable leverage over the terms of employment of temporary workers, particularly women, older workers, and those with disabilities. Amendments to the Labor Law adopted on November 24, restricted "temporary" employment to two years. The Ministry of Labor and Social Welfare and the Union of Free Trade Unions of Montenegro had various interpretations about the date when the amendments were to enter into force.

The government establishes health and safety regulations in the workplace. It requires employers to supply and enforce the use of safety equipment and to report any serious workplace deaths or injuries within 24 hours. Authorities did not strictly enforce the requirements, and both employers and workers violated health and safety rules, particularly in the construction industry. The machinery and tools used at construction sites were often not maintained properly, which increased the risk of injuries. The Ministry of Labor and its inspection department lacked

adequate resources to enforce workplace safety. Training was provided for labor inspectors, and awareness-raising activities increased during the year. In practice workers often lacked safety equipment, especially in the construction and wood-processing industries. During the year there were five deaths and 24 serious injuries at work, mostly at construction sites and wood-processing facilities. During the year authorities conducted 3,169 inspections of safety at workplaces and found 3,128 violations of safety regulations. The most frequent reasons cited for injuries were lack of work-related training, inadequate medical care for workers, and old equipment.

Despite these shortcomings, enforcement efforts continued. Labor inspectors have legal authority to close an establishment until violations are corrected. In cases of repeated violations, the owners can be fined. Inspectors found violations involving labor permits and contracts, worker compensation, employee contributions to social insurance, and payment of severance. During the year inspectors conducted 13,215 inspections, found 8,069 irregularities, closed workplaces in 708 cases, levied 2,582 on-the-spot fines for lesser violations, and filed 215 misdemeanor charges and criminal charges in six cases.